



8011-01p

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-70281; File No. SR-ICEEU-2013-10]

Self-Regulatory Organizations; ICE Clear Europe Limited; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Related to Regulatory Reporting of Swap Data

August 29, 2013.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),¹ and Rule 19b-4 thereunder,² notice is hereby given that on August 20, 2013, ICE Clear Europe Limited (“ICE Clear Europe”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change described in Items I and II below, which Items have been prepared primarily by ICE Clear Europe. ICE Clear Europe filed the proposal pursuant to Section 19(b)(3)(A)(iii)³ of the Act and Rule 19b-4(f)(4)(ii)⁴ thereunder so that the proposal was effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

ICE Clear Europe submits the proposed amendment to its clearing rules in order to add Rule 411 which facilitates swap data repository (“SDR”) reporting by and at ICE Clear Europe that is consistent with Part 45 of Commodity Futures Trading Commission (“CFTC”) Rules and Regulations. Proposed Rule 411 provides that ICE Clear Europe will report creation and continuation data to ICE Trade Vault, LLC (“ICE Trade Vault”), a provisionally registered SDR selected by ICE Clear Europe.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A)(iii).

⁴ 17 CFR 240.19b-4(f)(4)(ii).

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, ICE Clear Europe included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. ICE Clear Europe has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of these statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The proposed rule amendment includes proposed Rule 411, which provides that with respect to all swaps cleared by ICE Clear Europe and resulting positions, ICE Clear Europe will report creation and continuation data to ICE Trade Vault for purposes of complying with applicable CFTC rules and regulations governing the regulatory reporting of swaps, specifically CFTC Regulations 45.3,⁵ 45.4(b)⁶ and 45.9.⁷ Proposed Rule 411 is consistent with CFTC Regulations 45.3⁸ and 45.4(b)⁹ that require that creation and continuation data must be reported by both the derivatives clearing organization and the reporting counterparty. ICE Clear Europe currently complies with CFTC Regulations 45.3¹⁰ and 45.4(b)¹¹ by reporting swap data to ICE Trade Vault. In order to codify ICE Clear Europe's practice of reporting relevant Part 45 data to

⁵ 17 CFR 45.3.

⁶ 17 CFR 45.4(b).

⁷ 17 CFR 45.9.

⁸ 17 CFR 45.3.

⁹ 17 CFR 45.4(b).

¹⁰ 17 CFR 45.3.

¹¹ 17 CFR 45.4(b).

ICE Trade Vault, ICE Clear Europe proposed to add to its Clearing Rules, Rule 411 (Swap Data Repository “SDR” Reporting).

Proposed Rule 411 further provides that upon the request of a clearing member counterparty to a swap cleared at ICE Clear Europe, ICE Clear Europe will provide the same creation and continuation data reported by ICE Clear Europe to ICE Trade Vault to an SDR selected by such counterparty. In this regard, proposed Rule 411 is also consistent with CFTC Regulation 45.9¹² that provides that swap counterparties required by Part 45 to report swap creation or continuation data may contract with third-party service providers to facilitate reporting. Proposed Rule 411 ensures that ICE Clear Europe, in the capacity of a third-party service provider, will be responsible for reporting required swap creation and continuation data on behalf of ICE Clear Europe’s clearing members.

The addition of proposed Rule 411 is in response to swap dealers’ mandatory compliance with CFTC Regulations 45.3¹³ and 45.4,¹⁴ which was required as of February 28, 2013.

ICE Clear Europe believes that the proposed rule change is consistent with the requirements of Section 17A of the Act¹⁵ and the regulations thereunder applicable to it. ICE Clear Europe notes that proposed Rule 411 mirrors ICE Clear Credit LLC (“ICC”) Rule 211, approved by the Commission on an accelerated basis pursuant to Section 19(b)(2) of the Act¹⁶ on April 9, 2013, in every substantive respect. ICE Clear Europe notes that in the Commission’s notice of filing and order granting accelerated approval of ICC Rule 211, the Commission found

¹² 17 CFR 45.9.

¹³ 17 CFR 45.3.

¹⁴ 17 CFR 45.4.

¹⁵ 15 U.S.C. 78q-1.

¹⁶ 15 U.S.C. 78s(b)(2).

that “by facilitating compliance with the swap data reporting requirements of [the CFTC], [ICC Rule 211] is consistent with promoting the prompt and accurate clearance and settlement of derivative agreements, contracts, and transactions, assuring the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible, and protecting investors and the public interest” as required under Section 17A(b)(3)(F) of the Act.¹⁷

B. Self-Regulatory Organization’s Statement on Burden on Competition

ICE Clear Europe does not believe the proposed rule change would have any impact, or impose any burden, on competition. In general, proposed Rule 411 does not have any effect on competition because it is not a restraint. The proposed rule in no way keeps reportable trade data regarding swaps from being reported to any other SDR and, in fact, explicitly allows a clearing member that is a counterparty to a swap cleared at ICE Clear Europe to designate any SDR to receive swap creation and continuation data. While an affiliate of ICE Clear Europe, ICE Trade Vault, is available to handle SDR reporting obligations, ICE Clear Europe's rule is designed to permit ICE Clear Europe's clearing members to be able to designate any SDR to receive the required reports. The ability of ICE Clear Europe clearing members to designate any SDR ensures the competitiveness of the various reporting facilities.

Additionally, proposed Rule 411 complies with the swap data reporting requirements of the Commodity Exchange Act and the CFTC’s rules thereunder that further the goals of reducing systemic risk, increasing transparency and promoting market integrity within the financial system. The Commission has found that a rule that facilitates compliance with the swap data reporting requirements of another regulator is consistent with the requirements of the Act, in

¹⁷ 15 U.S.C. 78q-1(b)(3)(F); see Securities Exchange Act Release No. 69628 (Apr. 9, 2013), 78 FR 22350, 22351-52 (Apr. 15, 2013) (SR-ICC-2013-05).

particular the requirements of Section 17A of the Act¹⁸ and the rules and regulations thereunder applicable to a clearing agency.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Written comments relating to the rule change have been solicited from clearing members as part of the rule change process. ICE Clear Europe will notify the Commission of any written comments received by ICE Clear Europe.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective upon filing pursuant to Section 19(b)(3)(A)(iii) of the Act¹⁹ and Rule 19b-4(f)(4)(ii)²⁰ thereunder because it is effecting a change in an existing service of a registered clearing agency that primarily affects the clearing operations of the clearing agency with respect to products that are not securities, including swaps that are not security-based swaps or mixed swaps, and does not significantly affect the securities clearing operations of the clearing agency or any related rights or obligations of the clearing agency with respect to securities clearing or persons using such service. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

¹⁸ 15 U.S.C. 78q-1.

¹⁹ 15 U.S.C. 78s(b)(3)(A)(iii).

²⁰ 17 CFR 240.19b-4(f)(4)(ii).

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-ICEEU-2013-10 on the subject line.

Paper Comments:

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-ICEEU-2013-10. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street, NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filings also will be available for inspection and copying at the

principal office of ICE Clear Europe and on ICE Clear Europe's website at

<https://www.theice.com/notices/Notices.shtml?regulatoryFilings>.

All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-ICEEU-2013-10 and should be submitted on or before **[INSERT DATE 21 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²¹

Kevin M. O'Neill,
Deputy Secretary.

[FR Doc. 2013-21532 Filed 09/04/2013 at 8:45 am; Publication Date: 09/05/2013]

²¹ 17 CFR 200.30-3(a)(12).